



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RIN 0648-BI59]

Atlantic Highly Migratory Species; Supplement to Draft Amendment 14 to the 2006 Consolidated Atlantic Highly Migratory Species Fishery Management Plan; Meeting of the Atlantic Highly Migratory Species Advisory Panel

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of availability of supplement to Draft Amendment 14; request for comments; notice of public webinars/conference calls.

SUMMARY: NMFS announces the availability of a supplement to Draft Amendment 14 to the 2006 Consolidated Atlantic Highly Migratory Species (HMS) Fishery Management Plan (FMP). Draft Amendment 14 is being undertaken to revise the mechanism or “framework” used in establishing quotas and related management measures for Atlantic shark fisheries. The revised framework would modify the procedures followed in establishing the acceptable biological catch (ABC) and annual catch limits (ACLs) for Atlantic sharks and the process used to account for carryover or underharvests of quotas. NMFS provides details for application of the tiered ABC control rule and reopens the comment period on the ABC control rule for Atlantic HMS shark fisheries and. Amendment 14 will not make changes to the current quotas or other management measures. Any operational changes to HMS fishery management measures as a result of Amendment 14 will be considered in future rulemakings, as appropriate. NMFS will hold a half-day HMS Advisory Panel (AP) meeting on this topic in February 2022. The intent of the HMS AP meeting is to discuss the ABC control rule for Atlantic HMS shark

fisheries and collect comments regarding the application of the tiered ABC control rule.

The meeting is open to the public.

DATES: Written comments must be received by **[INSERT DATE 45 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. The AP meeting webinar and conference call will be held from 8 a.m. to 11 a.m. on Friday February 11, 2022. NMFS will hold one public hearing via webinar on supplement to Draft Amendment 14 will be held from 2 p.m. to 4 p.m. on February 23, 2022. For specific information see the **SUPPLEMENTARY INFORMATION** section of this document.

ADDRESSES: Electronic copies of the Supplement to Draft Amendment 14 to the 2006 Consolidated HMS FMP may be obtained on the internet at:

<https://www.fisheries.noaa.gov/action/amendment-14-2006-consolidated-hms-fishery-management-plan-shark-quota-management>.

You may submit comments on this document, identified by NOAA-NMFS-2019-0040, via the Federal e-Rulemaking Portal. Go to *www.regulations.gov*, enter NOAA-NMFS-2019-0040 into the search box, click the “Comment Now!” icon, complete the required fields, and enter or attach your comments.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.*, name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

The HMS AP meeting will be accessible via conference call and webinar. Conference call and webinar access information are available at:
<https://www.fisheries.noaa.gov/event/february-2022-hms-advisory-panel-meeting>.

Participants are strongly encouraged to log/dial in 15 minutes prior to the meeting. NMFS will show the presentations via webinar and allow public comment during identified times on the agenda.

FOR FURTHER INFORMATION CONTACT: Guy DuBeck

(Guy.DuBeck@noaa.gov) or Karyl Brewster-Geisz (Karyl.Brewster-Geisz@noaa.gov) by email, or by phone at (301) 427-8503 for information on the supplement to Draft Amendment 14. Peter Cooper (Peter.Cooper@noaa.gov) at (301) 427-8503 for information regarding the HMS AP meeting.

SUPPLEMENTARY INFORMATION: Atlantic HMS fisheries are managed under the dual authority of both the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act; 16 U.S.C. 1801 *et seq.*) and the Atlantic Tunas Convention Act (ATCA; 16 U.S.C. 971 *et seq.*). The 2006 Consolidated Atlantic HMS Fishery Management Plan (2006 Consolidated HMS FMP) and its amendments are implemented by regulations at 50 CFR part 635.

The Magnuson-Stevens Act requires that any FMP or FMP amendment be consistent with 10 National Standards (NS). Specifically, NS1 requires “conservation and management measures shall prevent overfishing while achieving, on a continuing basis, the optimum yield from each fishery for the United States fishing industry.” In 2016, NMFS revised the NS1 guidelines to improve, streamline, and enhance their utility for managers and the public and to facilitate compliance with the requirements of the Magnuson-Stevens Act and provide management flexibility in doing so (81 FR 71858; October 18, 2016). The revisions addressed a range of issues, such as providing guidance on options to phase in changes to catch limits and carry over unused quota from one year

to the next. On September 24, 2020, NMFS announced the availability of Draft Amendment 14 to the 2006 Consolidated HMS FMP (85 FR 60132) that considered revisions to the mechanism or “framework” used in establishing quotas and related management measures in Atlantic shark fisheries, considering the revised guidance. The current framework was established in Amendment 3 to the 2006 Consolidated HMS FMP. The revised framework would incorporate for potential use several optional fishery management tools in the revised NS1 guidelines.

In Draft Amendment 14, NMFS considered management options in order to revise the ABC framework that was established in Amendment 3. The management options considered included modifying the ABC control rule, revising processes for the implementation of an ABC, and modifying carry-over and phase-in provisions and multi-year overfishing status determinations. Full descriptions of the management options considered, including the preferred management options, are provided in Draft Amendment 14.

In Draft Amendment 14, NMFS preferred Management Option A3, which would adopt a general tiered approach to ABC control rules based on stocks that are categorized into tiers depending on the availability and quality of scientific data. NMFS did not provide details for its application, instead explaining that the shark ABC control rule would be similar to the South Atlantic Fishery Management Council’s tiered ABC control rule for Amendment 29 to the snapper grouper fishery FMP.

During the comment period for Draft Amendment 14, the agency received ten written comments and a variety of verbal comments on preferred management options. Regarding the ABC control rule specifically, several commenters asked questions and requested additional information regarding Management Option A3. Based on these comments, NMFS has revised Management Option A3 and is providing further details in a supplement to Draft Amendment 14. These tiers apply to all sharks that have a stock

status of healthy (i.e., not subject to overfishing and not overfished), experiencing overfishing, or unknown. For shark stocks that are: (1) under a rebuilding plan, (2) assessed (or could be assessed) by the scientific body of the International Commission for the Conservation of Atlantic Tunas (ICCAT), or (3) in the prohibited shark complex, different approaches would apply.

The supplemental document provides further details regarding preferred Management Option A3 on the ABC control rule. The remaining options published in Draft Amendment 14 are still being considered to establish the general framework through which specific management measures would later be developed and adopted. Any changes to the actual management and quotas of HMS-managed Atlantic shark stocks or management complexes would occur in future FMP amendments or regulatory actions, as appropriate.

NMFS is requesting public comment on the additional details provided in the supplement on preferred Management Option A3 and the other management options considered under the ABC control rule from Draft Amendment 14. Comments on any other topic (phase-in ABC control rule, ACL development, carry-over of underharvested ACL, or multi-year overfishing status determination criteria) within Draft Amendment 14 are not specifically being sought at this time. However, NOAA Fisheries would consider new comments if the additional details provided in this document affect how the public might comment on other issues in Draft Amendment 14. Previously-submitted comments should not be re-submitted during this comment period.

The Magnuson-Stevens Act requires the establishment of APs and requires NMFS to consult with and consider the comments and views of AP members during the preparation and implementation of FMPs or FMP amendments. 16 U.S.C. 1854(g)(1)(A)-(B). NMFS meets with the HMS AP approximately twice each year to consider potential

alternatives for the conservation and management of Atlantic tunas, swordfish, billfish, and shark fisheries, consistent with the Magnuson-Stevens Act.

For the upcoming HMS AP meeting, we will focus on the supplement to Draft Amendment 14 and the ABC control rule for Atlantic HMS shark fisheries. Additional information and a copy of the draft agenda will be posted prior to the meeting at:

<https://www.fisheries.noaa.gov/event/february-2022-hms-advisory-panel-meeting>.

Public Hearings

NMFS will take into consideration public comments on Draft Amendment 14 and the supplemental document before finalizing the preferred management options. The preferred management options may be altered or different management options may be adopted at the final Amendment stage, although any significant changes would require additional notice and opportunity for public comment. NMFS anticipates that Final Amendment 14 and its related documents would be available in 2022.

Comments on supplement to Draft Amendment 14 may be submitted via *www.regulations.gov*, and comments may also be submitted at the public hearing. NMFS solicits comments on this action by *[insert date 45 days after date of publication in the FEDERAL REGISTER]*. During the comment period, NMFS will hold one public hearing via webinar. Information on the webinar will be posted at:

<https://www.fisheries.noaa.gov/action/amendment-14-2006-consolidated-hms-fishery-management-plan-shark-quota-management>. Requests for sign language interpretation or other auxiliary aids should be directed to Guy DuBeck at *guy.dubeck@noaa.gov* or 301-427-8503, at least 7 days prior to the meeting. In addition, NMFS will make a presentation on the supplement to the HMS AP on February 11, 2022. Information on the HMS AP meeting will be posted prior to the meeting at:

<https://www.fisheries.noaa.gov/event/february-2022-hms-advisory-panel-meeting>.

The public is reminded that NMFS expects participants at public webinar to conduct themselves appropriately. At the beginning of the webinar, the moderator will explain how the webinar will be conducted and how and when participants can provide comments. NMFS representative(s) will structure the webinars so that all members of the public will be able to comment, if they so choose, regardless of the controversial nature of the subject(s). Participants are expected to respect the ground rules, and those that do not may be asked to leave the webinar.

(Authority: 16 U.S.C. 971 *et seq.*, and 1801 *et seq.*)

Dated: January 18, 2022.

Ngagne Jafnar Gueye,

Acting Director,

Office of Sustainable Fisheries,

National Marine Fisheries Service.

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